

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 25, 2019

Date

Honorable Dan Patrick
President of the Senate

Honorable Dennis Bonnen
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on H.B. 3557 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Brian Birdwell

Birdwell

Pat Fallon

Fallon

Peter P. Flores

Flores

Bryan Hughes

Hinojosa

Hughes

On the part of the Senate

Chm Padden

Paddier

Tom Craddock

Craddock

Lee

Lee

Moody

Zwienen

On the part of the House

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 3557

A BILL TO BE ENTITLED

AN ACT

relating to civil and criminal liability for engaging in certain
conduct involving a critical infrastructure facility; creating
criminal offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act shall be known as the Critical
Infrastructure Protection Act.

SECTION 2. Subtitle B, Title 4, Government Code, is amended
by adding Chapter 424 to read as follows:

CHAPTER 424. PROTECTION OF CRITICAL INFRASTRUCTURE FACILITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 424.001. DEFINITION. In this chapter, "critical
infrastructure facility" has the meaning assigned by Section
423.0045(a)(1-a) and also includes:

(1) any pipeline transporting oil or gas or the
products or constituents of oil or gas; and

(2) a facility or pipeline described by this section
that is under construction and all equipment and appurtenances used
during that construction.

SUBCHAPTER B. CRIMINAL LIABILITY

Sec. 424.051. OFFENSE: DAMAGING OR DESTROYING CRITICAL
INFRASTRUCTURE FACILITY. (a) A person commits an offense if,
without the effective consent of the owner, the person enters or
remains on or in a critical infrastructure facility and

1 intentionally or knowingly damages or destroys the facility.

2 (b) An offense under this section is a felony of the third
3 degree.

4 (c) If conduct constituting an offense under this section
5 also constitutes an offense under another law, the actor may be
6 prosecuted under this section, the other law, or both.

7 (d) It is a defense to prosecution under this section that
8 the damage caused to the critical infrastructure facility was only
9 superficial.

10 Sec. 424.052. OFFENSE: IMPAIRING OR INTERRUPTING OPERATION
11 OF CRITICAL INFRASTRUCTURE FACILITY. (a) A person commits an
12 offense if, without the effective consent of the owner, the person
13 enters or remains on or in a critical infrastructure facility and
14 intentionally or knowingly impairs or interrupts the operation of
15 the facility.

16 (b) An offense under this section is a state jail felony.

17 (c) If conduct constituting an offense under this section
18 also constitutes an offense under another law, the actor may be
19 prosecuted under this section, the other law, or both.

20 Sec. 424.053. OFFENSE: INTENT TO DAMAGE OR DESTROY CRITICAL
21 INFRASTRUCTURE FACILITY. (a) A person commits an offense if,
22 without the effective consent of the owner, the person enters or
23 remains on or in a critical infrastructure facility with the intent
24 to damage or destroy the facility.

25 (b) An offense under this section is a state jail felony.

26 (c) If conduct constituting an offense under this section
27 also constitutes an offense under another law, the actor may be

1 prosecuted under this section, the other law, or both.

2 (d) It is a defense to prosecution under this section that
3 the actor intended to cause only superficial damage to the critical
4 infrastructure facility.

5 Sec. 424.054. OFFENSE: INTENT TO IMPAIR OR INTERRUPT
6 OPERATION OF CRITICAL INFRASTRUCTURE FACILITY. (a) A person
7 commits an offense if, without the effective consent of the owner,
8 the person enters or remains on or in a critical infrastructure
9 facility with the intent to impair or interrupt the operation of the
10 facility.

11 (b) An offense under this section is a Class A misdemeanor.

12 (c) If conduct constituting an offense under this section
13 also constitutes an offense under another law, the actor may be
14 prosecuted under this section, the other law, or both.

15 Sec. 424.055. PUNISHMENT FOR CORPORATIONS AND
16 ASSOCIATIONS. Notwithstanding Section 12.51, Penal Code, a court
17 shall sentence a corporation or association adjudged guilty of an
18 offense under this subchapter to pay a fine not to exceed \$500,000.

19 Sec. 424.056. RESTITUTION. If a defendant is convicted of
20 an offense under this subchapter and the offense results in damage
21 to or destruction of property, a court may, in accordance with
22 Article 42.037, Code of Criminal Procedure, order the defendant to
23 make restitution to the owner of the damaged or destroyed property,
24 or the owner's designee, in an amount equal to the value of the
25 property on the date of the damage or destruction.

26 SUBCHAPTER C. CIVIL LIABILITY

27 Sec. 424.101. CIVIL LIABILITY FOR DAMAGE TO CRITICAL

1 INFRASTRUCTURE FACILITY. (a) A defendant who engages in conduct
2 constituting an offense under Section 424.051, 424.052, 424.053, or
3 424.054 is liable to the property owner, as provided by this
4 subchapter, for damages arising from that conduct.

5 (b) It is not a defense to liability under this section that
6 a defendant has been acquitted or has not been prosecuted or
7 convicted under Section 424.051, 424.052, 424.053, or 424.054, or
8 has been convicted of a different offense or of a different type or
9 class of offense, for the conduct that is alleged to give rise to
10 liability under this section.

11 Sec. 424.102. CERTAIN ADDITIONAL LIABILITY. In addition to
12 any liability under Section 424.101, an organization that, acting
13 through an officer, director, or other person serving in a
14 managerial capacity, knowingly compensates a person for engaging in
15 conduct occurring on the premises of a critical infrastructure
16 facility is liable to the property owner, as provided by this
17 subchapter, for damages arising from the conduct if the conduct
18 constituted an offense under Section 424.051, 424.052, 424.053, or
19 424.054.

20 Sec. 424.103. DAMAGES. (a) A claimant who prevails in a
21 suit under this subchapter shall be awarded:

22 (1) actual damages; and

23 (2) court costs.

24 (b) In addition to an award under Subsection (a), a claimant
25 who prevails in a suit under this subchapter may recover exemplary
26 damages.

27 Sec. 424.104. CAUSE OF ACTION CUMULATIVE. The cause of

1 action created by this subchapter is cumulative of any other remedy
2 provided by common law or statute.

3 Sec. 424.105. NONAPPLICABILITY. The following provisions
4 of the Civil Practice and Remedies Code do not apply to a cause of
5 action arising under this subchapter:

6 (1) Chapter 27; and

7 (2) Section 41.008.

8 SECTION 3. Section 423.0045(a)(1), Government Code, as
9 amended by Chapters 824 (H.B. 1643) and 1010 (H.B. 1424), Acts of
10 the 85th Legislature, Regular Session, 2017, is reenacted to read
11 as follows:

12 (1) "Correctional facility" means:

13 (A) a confinement facility operated by or under
14 contract with any division of the Texas Department of Criminal
15 Justice;

16 (B) a municipal or county jail;

17 (C) a confinement facility operated by or under
18 contract with the Federal Bureau of Prisons; or

19 (D) a secure correctional facility or secure
20 detention facility, as defined by Section 51.02, Family Code.

21 SECTION 4. Section 423.0045(a)(1-a), Government Code, as
22 added by Chapter 1010 (H.B. 1424), Acts of the 85th Legislature,
23 Regular Session, 2017, is reenacted to conform to the changes made
24 to Section 423.0045(a)(1), Government Code, by Chapter 824 (H.B.
25 1643), Acts of the 85th Legislature, Regular Session, 2017, to read
26 as follows:

27 (1-a) "Critical infrastructure facility" means:

1 (A) one of the following, if completely enclosed
2 by a fence or other physical barrier that is obviously designed to
3 exclude intruders, or if clearly marked with a sign or signs that
4 are posted on the property, are reasonably likely to come to the
5 attention of intruders, and indicate that entry is forbidden:

6 (i) a petroleum or alumina refinery;

7 (ii) an electrical power generating
8 facility, substation, switching station, or electrical control
9 center;

10 (iii) a chemical, polymer, or rubber
11 manufacturing facility;

12 (iv) a water intake structure, water
13 treatment facility, wastewater treatment plant, or pump station;

14 (v) a natural gas compressor station;

15 (vi) a liquid natural gas terminal or
16 storage facility;

17 (vii) a telecommunications central
18 switching office or any structure used as part of a system to
19 provide wired or wireless telecommunications services;

20 (viii) a port, railroad switching yard,
21 trucking terminal, or other freight transportation facility;

22 (ix) a gas processing plant, including a
23 plant used in the processing, treatment, or fractionation of
24 natural gas;

25 (x) a transmission facility used by a
26 federally licensed radio or television station;

27 (xi) a steelmaking facility that uses an

1 electric arc furnace to make steel;

2 (xii) a dam that is classified as a high
3 hazard by the Texas Commission on Environmental Quality; or

4 (xiii) a concentrated animal feeding
5 operation, as defined by Section 26.048, Water Code; or

6 (B) if enclosed by a fence or other physical
7 barrier obviously designed to exclude intruders:

8 (i) any portion of an aboveground oil, gas,
9 or chemical pipeline;

10 (ii) an oil or gas drilling site;

11 (iii) a group of tanks used to store crude
12 oil, such as a tank battery;

13 (iv) an oil, gas, or chemical production
14 facility;

15 (v) an oil or gas wellhead; or

16 (vi) any oil and gas facility that has an
17 active flare.

18 SECTION 5. The change in law made by this Act in adding
19 Subchapter C, Chapter 424, Government Code, applies only to a cause
20 of action that accrues on or after the effective date of this Act. A
21 cause of action that accrues before the effective date of this Act
22 is governed by the law in effect immediately before that date, and
23 that law is continued in effect for that purpose.

24 SECTION 6. To the extent of any conflict, this Act prevails
25 over another Act of the 86th Legislature, Regular Session, 2019,
26 relating to nonsubstantive additions to and corrections in enacted
27 codes.

1 SECTION 7. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2019.

House Bill 3557
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. This Act shall be known as the Critical Infrastructure Protection Act.

SECTION 2. Subtitle B, Title 4, Government Code, is amended by adding Chapter 424 to read as follows:

CHAPTER 424. PROTECTION OF CRITICAL INFRASTRUCTURE FACILITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 424.001. DEFINITION. In this chapter, "critical infrastructure facility" has the meaning assigned by Section 423.0045(a)(1-a) and also includes:

- (1) any pipeline transporting oil or gas or the products or constituents of oil or gas; and
- (2) a facility or pipeline described by this section that is under construction and all equipment and appurtenances used during that construction.

SUBCHAPTER B. CRIMINAL LIABILITY

Sec. 424.051. OFFENSE: **DAMAGE TO** CRITICAL INFRASTRUCTURE FACILITY. (a) A person commits an offense if, without the effective consent of the owner, the person enters or remains on or in a critical infrastructure facility and intentionally or knowingly destroys the facility **or impairs or interrupts the operation of the facility.**

(b) An offense under this section is a felony of the third degree.

(c) If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

SENATE VERSION (IE)

SECTION 1. Same as House version.

SECTION 2. Subtitle B, Title 4, Government Code, is amended by adding Chapter 424 to read as follows:

CHAPTER 424. PROTECTION OF CRITICAL INFRASTRUCTURE FACILITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 424.001. Same as House version.

SUBCHAPTER B. CRIMINAL LIABILITY

Sec. 424.051. OFFENSE: **DAMAGING OR DESTROYING** CRITICAL INFRASTRUCTURE FACILITY. (a) A person commits an offense if, without the effective consent of the owner, the person enters or remains on or in a critical infrastructure facility and intentionally or knowingly **damages or** destroys the facility. [FA1(1)]

(b) An offense under this section is a felony of the third degree.

(c) If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

CONFERENCE

SECTION 1. Same as House version.

SECTION 2. Subtitle B, Title 4, Government Code, is amended by adding Chapter 424 to read as follows:

CHAPTER 424. PROTECTION OF CRITICAL INFRASTRUCTURE FACILITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 424.001. Same as House version.

SUBCHAPTER B. CRIMINAL LIABILITY

Sec. 424.051. OFFENSE: **DAMAGING OR DESTROYING** CRITICAL INFRASTRUCTURE FACILITY. (a) A person commits an offense if, without the effective consent of the owner, the person enters or remains on or in a critical infrastructure facility and intentionally or knowingly **damages or** destroys the facility.

(b) An offense under this section is a felony of the third degree.

(c) If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

(d) It is a defense to prosecution under this section that the damage caused to the critical infrastructure facility was only superficial.

House Bill 3557
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

Sec. 424.052. OFFENSE: INTENT TO DAMAGE CRITICAL INFRASTRUCTURE FACILITY.

(a) A person commits an offense if, without the effective consent of the owner, the person enters or remains on or in a critical infrastructure facility with the intent to destroy the facility **or impair or interrupt the operation of the facility.**

(b) An offense under this section is a state jail felony.

(c) If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

No equivalent provision.

SENATE VERSION (IE)

Sec. 424.052. OFFENSE: IMPAIRING OR INTERRUPTING OPERATION OF CRITICAL INFRASTRUCTURE FACILITY.

(a) A person commits an offense if, without the effective consent of the owner, the person enters or remains on or in a critical infrastructure facility and intentionally or knowingly impairs or interrupts the operation of the facility.

(b) An offense under this section is a **misdemeanor punishable by a fine not to exceed \$10,000 or confinement in jail for a term not to exceed one year, or both the fine and confinement.**

(c) If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both. [FA1(2)]

Sec. 424.053. OFFENSE: INTENT TO DAMAGE **OR DESTROY** CRITICAL INFRASTRUCTURE FACILITY.

(a) A person commits an offense if, without the effective consent of the owner, the person enters or remains on or in a critical infrastructure facility with the intent to **damage or** destroy the facility. [FA1(3)-(4)]

(b) An offense under this section is a state jail felony.

(c) If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

Sec. 424.054. OFFENSE: INTENT TO IMPAIR OR INTERRUPT OPERATION OF CRITICAL

CONFERENCE

Sec. 424.052. OFFENSE: IMPAIRING OR INTERRUPTING OPERATION OF CRITICAL INFRASTRUCTURE FACILITY.

(a) A person commits an offense if, without the effective consent of the owner, the person enters or remains on or in a critical infrastructure facility and intentionally or knowingly impairs or interrupts the operation of the facility.

(b) An offense under this section is a **state jail felony.**

(c) If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

Sec. 424.053. OFFENSE: INTENT TO DAMAGE **OR DESTROY** CRITICAL INFRASTRUCTURE FACILITY.

(a) A person commits an offense if, without the effective consent of the owner, the person enters or remains on or in a critical infrastructure facility with the intent to **damage or** destroy the facility.

(b) An offense under this section is a state jail felony.

(c) If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

(d) It is a defense to prosecution under this section that the actor intended to cause only superficial damage to the critical infrastructure facility.

Sec. 424.054. Same as Senate version.

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SENATE VERSION (IE)

CONFERENCE

INFRASTRUCTURE FACILITY. (a) A person commits an offense if, without the effective consent of the owner, the person enters or remains on or in a critical infrastructure facility with the intent to impair or interrupt the operation of the facility.
(b) An offense under this section is a Class A misdemeanor.
(c) If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.
[FA1(5)]

Sec. 424.053. PUNISHMENT FOR CORPORATIONS AND ASSOCIATIONS. Notwithstanding Section 12.51, Penal Code, a court shall sentence a corporation or association adjudged guilty of an offense under this subchapter to pay a fine not to exceed \$500,000.

Sec. 424.055. Same as House version. [FA1(6)]

Sec. 424.055. Same as House version.

Sec. 424.054. RESTITUTION. If a defendant is convicted of an offense under this subchapter and the offense results in damage to or destruction of property, a court may, in accordance with Article 42.037, Code of Criminal Procedure, order the defendant to make restitution to the owner of the damaged or destroyed property, or the owner's designee, in an amount equal to the value of the property on the date of the damage or destruction.

Sec. 424.056. Same as House version. [FA1(7)]

Sec. 424.056. Same as House version.

SUBCHAPTER C. CIVIL LIABILITY

SUBCHAPTER C. CIVIL LIABILITY

SUBCHAPTER C. CIVIL LIABILITY

Sec. 424.101. CIVIL LIABILITY FOR DAMAGE TO CRITICAL INFRASTRUCTURE FACILITY. (a) A defendant who engages in conduct constituting an offense under Section 424.051 or 424.052 is liable to the property

Sec. 424.101. CIVIL LIABILITY FOR DAMAGE TO CRITICAL INFRASTRUCTURE FACILITY. (a) A defendant who engages in conduct constituting an offense under Section 424.051, 424.052, **424.053, or 424.054** is

Sec. 424.101. Same as Senate version.

House Bill 3557
Conference Committee Report
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HOUSE VERSION

owner, as provided by this subchapter, for damages arising from that conduct.

(b) It is not a defense to liability under this section that a defendant has been acquitted or has not been prosecuted or convicted under Section 424.051 or 424.052, or has been convicted of a different offense or of a different type or class of offense, for the conduct that is alleged to give rise to liability under this section.

Sec. 424.102. CERTAIN ADDITIONAL LIABILITY. In addition to any liability under Section 424.101, an organization that, acting through an officer, director, or other person serving in a managerial capacity, knowingly compensates a person for engaging in conduct occurring on the premises of a critical infrastructure facility is liable to the property owner, as provided by this subchapter, for damages arising from the conduct if the conduct constituted an offense under Section 424.051 or 424.052.

Sec. 424.103. DAMAGES. (a) A claimant who prevails in a suit under this subchapter shall be awarded:

(1) actual damages; and

(2) court costs.

(b) In addition to an award under Subsection (a), a claimant who prevails in a suit under this subchapter may recover exemplary damages.

Sec. 424.104. CAUSE OF ACTION CUMULATIVE. The cause of action created by this subchapter is cumulative of any other remedy provided by common law or statute.

SENATE VERSION (IE)

liable to the property owner, as provided by this subchapter, for damages arising from that conduct. [FA1(8)]

(b) It is not a defense to liability under this section that a defendant has been acquitted or has not been prosecuted or convicted under Section 424.051, 424.052, **424.053, or 424.054**, or has been convicted of a different offense or of a different type or class of offense, for the conduct that is alleged to give rise to liability under this section. [FA1(9)]

Sec. 424.102. CERTAIN ADDITIONAL LIABILITY. In addition to any liability under Section 424.101, an organization that, acting through an officer, director, or other person serving in a managerial capacity, knowingly compensates a person for engaging in conduct occurring on the premises of a critical infrastructure facility is liable to the property owner, as provided by this subchapter, for damages arising from the conduct if the conduct constituted an offense under Section 424.051, 424.052, **424.053, or 424.054**. [FA1(10)]

Sec. 424.103. Same as House version.

Sec. 424.104. Same as House version.

CONFERENCE

Sec. 424.102. Same as Senate version.

Sec. 424.103. Same as House version.

Sec. 424.104. Same as House version.

House Bill 3557
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

Sec. 424.105. NONAPPLICABILITY. The following provisions of the Civil Practice and Remedies Code do not apply to a cause of action arising under this subchapter:

- (1) Chapter 27; and
- (2) Section 41.008.

SECTION 3. Section 423.0045(a)(1), Government Code, as amended.

SECTION 4. Section 423.0045(a)(1-a), Government Code, as added by Chapter 1010 (H.B. 1424), Acts of the 85th Legislature, Regular Session, 2017, is reenacted to conform to the changes made to Section 423.0045(a)(1), Government Code, by Chapter 824 (H.B. 1643), Acts of the 85th Legislature, Regular Session, 2017, to read as follows:

(1-a) "Critical infrastructure facility" means:

(A) one of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs that are posted on the property, are reasonably likely to come to the attention of intruders, and indicate that entry is forbidden:

- (i) a petroleum or alumina refinery;
- (ii) an electrical power generating facility, substation, switching station, or electrical control center;
- (iii) a chemical, polymer, or rubber manufacturing facility;
- (iv) a water intake structure, water treatment facility, wastewater treatment plant, or pump station;
- (v) a natural gas compressor station;
- (vi) a liquid natural gas terminal or storage facility;

SENATE VERSION (IE)

Sec. 424.105. Same as House version.

SECTION 3. Same as House version.

SECTION 4. Same as House version.

CONFERENCE

Sec. 424.105. Same as House version.

SECTION 3. Same as House version.

SECTION 4. Same as House version.

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- (vii) a telecommunications central switching office or any structure used as part of a system to provide wired or wireless telecommunications services;
- (viii) a port, railroad switching yard, trucking terminal, or other freight transportation facility;
- (ix) a gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas;
- (x) a transmission facility used by a federally licensed radio or television station;
- (xi) a steelmaking facility that uses an electric arc furnace to make steel;
- (xii) a dam that is classified as a high hazard by the Texas Commission on Environmental Quality; or
- (xiii) a concentrated animal feeding operation, as defined by Section 26.048, Water Code; or
- (B) if enclosed by a fence or other physical barrier obviously designed to exclude intruders:
 - (i) any portion of an aboveground oil, gas, or chemical pipeline;
 - (ii) an oil or gas drilling site;
 - (iii) a group of tanks used to store crude oil, such as a tank battery;
 - (iv) an oil, gas, or chemical production facility;
 - (v) an oil or gas wellhead; or
 - (vi) any oil and gas facility that has an active flare.

SECTION 5. Savings provision.

SECTION 6. To the extent of any conflict, this Act prevails over another Act of the 86th Legislature, Regular Session, 2019, relating to nonsubstantive additions to and corrections in enacted codes.

SENATE VERSION (IE)

SECTION 5. Same as House version.

SECTION 6. Same as House version.

CONFERENCE

SECTION 5. Same as House version.

SECTION 6. Same as House version.

House Bill 3557
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

SECTION 7. Effective date.

SENATE VERSION (IE)

SECTION 7. Same as House version.

CONFERENCE

SECTION 7. Same as House version.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 25, 2019

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Dennis Bonnen, Speaker of the House, House of Representatives

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3557 by Paddie (Relating to civil and criminal liability for engaging in certain conduct involving a critical infrastructure facility; creating criminal offenses.), **Conference Committee Report**

The probable fiscal impact of implementing the bill is indeterminate due to the lack of data or information available on the number of times a person damaged or destroyed, impaired or interrupted, intended to damage or destroy, or intended to impair or interrupt the operations of a critical infrastructure facility. These data are necessary to estimate the fiscal impact of the bill's provisions.

The bill would amend the Government Code as it relates to the civil and criminal liability for engaging in certain conduct involving a critical infrastructure facility. Under the provisions of the bills engaging in certain behaviors involving a critical infrastructure facility would be punishable at the misdemeanor and felony level with the punishment based on the specific circumstances of the offense. The bill would also require courts to sentence corporations and associations adjudged guilty of these offenses to pay a fine.

Creating a criminal offense is expected to result in additional demands upon the correctional resources of counties or of the State due to longer terms of supervision in the community or longer terms of confinement within state correctional institutions. The bill may have a negative fiscal impact by increasing the number of people under felony community supervision or incarcerated within state correctional institutions. Whether the bill would result in a significant fiscal impact is indeterminate due to the lack of information on the number of times a person committed these actions against a critical infrastructure facility. According to the Comptroller on Public Accounts, the fiscal impact to the state cannot be estimated. The Office of Court Administration indicates the modifications outlined in the bill's provisions will not result in a significant fiscal impact to the state court system.

Local Government Impact

According to the Office of Court Administration, no significant fiscal implication to the local court system is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 696 Department of Criminal Justice,
212 Office of Court Administration, Texas Judicial Council

LBB Staff: WP, SPa, SZ, MW, DA, SLE, LM, LCO

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

86TH LEGISLATIVE REGULAR SESSION

May 25, 2019

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Dennis Bonnen, Speaker of the House, House of Representatives

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3557 by Paddie (Relating to civil and criminal liability for engaging in certain conduct involving a critical infrastructure facility; creating criminal offenses.), **Conference Committee Report**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Government Code to create criminal offenses for a person who, without the effective consent of the owner, enters or remains on or in a critical infrastructure facility and intentionally or knowingly damages or destroys the facility or impairs or interrupts the operation of the facility. The bill also creates criminal offenses if the person enters or remains on or in the facility with the intent to commit these actions. These offenses would be punishable as a misdemeanor or felony depending on the circumstances of the offense.

A third degree felony is punishable by confinement in prison for a term from 2 to 10 years and a state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or Class A misdemeanor punishment. In addition to confinement, most felonies may be subject to an optional fine not to exceed \$10,000. A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year and, in addition to confinement, an optional fine not to exceed \$4,000.

Creating a criminal offense is expected to result in additional demands upon the correctional resources of counties or of the State due to longer terms of supervision in the community or longer terms of confinement within state correctional institutions. The bill may have a negative population impact by increasing the number of people under felony community supervision or incarcerated within state correctional institutions. Whether the bill would result in a significant population impact is indeterminate due to the lack of information on the number of times a person committed these actions against a critical infrastructure facility as defined by the bill. In fiscal year 2018, for misdemeanor offenses related to criminal trespass and criminal mischief, 11,488 people were arrested and 1,605 were placed under community supervision. Data do not exist that would allow for criminal conduct for the facility types addressed in the bill's provisions to be identified from all other cases.


Source Agencies:

LBB Staff: WP, LM, SPa

**Certification of Compliance with
Rule 13, Section 6(b), House Rules of Procedure**

Rule 13, Section 6(b), House Rules of Procedure, requires a copy of a conference committee report signed by a majority of each committee of the conference to be furnished to each member of the committee in person or, if unable to deliver in person, by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under House Rule 13, Section 10(a). The paper copies of the report submitted to the chief clerk under Rule 13, Section 10(b), must contain a certificate that the requirement of Rule 13, Section 6(b), has been satisfied, and that certificate must be attached to the copy of the report furnished to each member under Rule 13, Section 10(d). Failure to comply with this requirement is not subject to a point of order under Rule 13.

I certify that a copy of the conference committee report on H.R. 3557 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Rule 13, Section 10(b), House Rules of Procedure.



(name)

5/25/18

(date)